

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

KEYBANK NATIONAL ASSOCIATION,
successor by merger to KEY EQUIPMENT
FINANCE INC.,

Plaintiff,

v.

CENTRAL VALLEY PRESORT, INC.,

Defendant.

Case No.

COMPLAINT

Plaintiff KeyBank National Association, the successor by merger to Key Equipment Finance Inc., by and through its undersigned counsel, hereby submits this Complaint against Defendant Central Valley Presort, Inc. and in support thereof avers as follows:

PARTIES

1. Plaintiff KeyBank National Association (“KeyBank”) is a nationally chartered bank with its main office, as designated in its articles of association, at 127 Public Square, Cleveland, Ohio 44114 and is the successor by merger to Key Equipment Finance Inc. Pursuant to 28 U.S.C. § 1348, KeyBank is a citizen of the State of Ohio.

2. Defendant Central Valley Presort, Inc. (“CVP”) is a business organized and existing pursuant to the laws of the State of California, with its principal place of business at 1931 G Street, Fresno, California 93706. Accordingly, CVP is a citizen of the State of California.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(a)(1) because the matter in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs, and complete diversity of citizenship exists.

4. CVP consented to the jurisdiction of this Court in the contract it signed with KeyBank.

5. For the same reason, venue is also proper in this Court. KeyBank also has an office in New York County.

FACTUAL ALLEGATIONS

6. On August 6, 2014, KeyBank and CVP entered into Lease Agreement No. 1800095581 (“Agreement”), in which KeyBank agreed to finance CVP’s purchase of personal computers, services, and label printers in exchange for thirty-six (36) payments of \$3,297.34. A true and correct copy of the Agreement is attached as Exhibit A.

7. Pursuant to paragraph 8 of the Agreement, CVP would default when it “fail[ed] to pay any amount within ten days after the same shall have become due[.]” Ibid.

8. If CVP defaulted on the Agreement, KeyBank would acquire the right to “(a) without notice, accelerate all payments under the [Agreement] . . . [and] (b) collect payment of all [Agreement] sums due plus the present value . . . of sums that will become due[.]” Ibid.

9. On or around November 30, 2014, CVP failed to make timely payments.

10. On May 29, 2015, KeyBank sent a letter to CVP declaring it in default, accelerating all past due, current, and future payments, and stating a deficiency balance of \$97,174.76 was now due and payable. A true and correct copy of the letter is attached as Exhibit B.

11. On October 26, 2015, KeyBank sent a letter to CVP indicating that the updated deficiency balance was \$99,381.83. A true and correct copy of the letter is attached as Exhibit C.

12. To date, the deficiency balance of \$99,381.83 remains unpaid.

13. Paragraph 2 of the Agreement provides that CVP “will pay [KeyBank] . . . costs of collection, including contingency fees and reasonable attorney fees in all proceedings arising under this Agreement[.]” Exh. A.

FIRST COUNT
BREACH OF CONTRACT
(AGAINST CVP)

14. KeyBank incorporates by reference the previously stated paragraphs, as if set forth at length herein.

15. The Agreement is a valid and enforceable contract between KeyBank and CVP.

16. KeyBank performed all of its obligations pursuant to the Agreement.

17. CVP defaulted on its contractual obligations under the Agreement when it failed to make timely monthly repayments.

18. To date, the deficiency balance owed by CVP on the Agreement is \$99,381.83.

WHEREFORE, Plaintiff KeyBank National Association demands judgment against Defendant Creative Valley Presort, Inc. for \$99,381.83 in addition to reasonable attorneys' fees and costs and such other relief as the Court deems equitable and just.

Respectfully submitted,
WONG FLEMING

Dated: January 14, 2016

By: /s/ Daniel C. Fleming
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